

REMARKS:

Applicant's representative wishes to note for the record that Examiner Bashore has been helpful and responsive, and has conducted himself in a manner consistent with the highest of professional standards. He has furthermore made diligent efforts to resolve the facts surrounding an interview with a former Examiner. That notwithstanding, in view of the protracted prosecution and high costs mounting in this case, the undersigned has been instructed to appeal the present case and to petition the Commissioner for relief in this matter. The undersigned requests reconsideration in order to obviate the need for such a request as a result of the filing of a petition for relief in this matter, and to hopefully bring about a resolution that avoids need for such action. Thus reconsideration is requested on the following grounds.

Applicant disagrees with the contentions of Examiner Bashore appearing in section 11 of the Advisory Action of 2/23/2005 as follows:

- Applicant feels that interpretation of the term "*detection*" in the prior art cannot be made so broad as to encompass the multiple acts of "*recognizing ... and ... receiving verification*" as called for in the claims. There is no reasonable basis for such an assertion. If the Examiner would like to see an amendment to separately add a verification subparagraph to the independent claims, Applicant submits that the claim meaning would be substantially unchanged, but Applicant would gladly agree to such an amendment.
- Applicant's position is that the arguments are in fact commensurate with the claim scope, and that the clear and unambiguous language of the claims does in fact require separate "*verification*".
- Even though the arguments presented used the term "*separate*" to describe the verification, and the claims do not use the term "*separate*", the fact is that verification is separately and clearly required in the claims. The term "*separate*" was used in the arguments to emphasize the clear fact that "*detection*" does not inherently include "*verification*" as asserted in the Final Office Action dated December 21, 2004. The reasoning for this is found in the Amendment dated February 2, 2005 in the

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arguments spanning pages 8-10.

- MPEP 2143.03 clearly requires that all claim limitations must be considered, yet the clear presence of the claim limitation of “*verification*” is apparently being disputed or disregarded, and is clearly being improperly interpreted.
- Each independent claim of the application clearly contains the verification limitation.
- This language has been present since the Office Action response dated March 16, 2004. The language was presented as a result of the interview of March 11, 2004 and subsequent telephone conversations, as noted in the interview summary in that Office Action Response (page 11). This is believed to be a timely documentation of that interview which was not disputed until nearly one year later after a change in examiner.
- It is noted that such documentation of these agreements on page 11 of the March 16, 2004 Office Action are nearly contemporaneous with the interview.
- The Office Action response dated March 16, 2004 on page 11 documents agreements made during that interview. Such documented agreements included that the rejections based on the Wong and Boesch references are overcome. This is one reason that the Examiner indicated that a new search would be done.
- The Examiner’s Interview Summary Form of March 11, 2004 is not inconsistent with Applicant’s summary in the Office Action Response of March 16, 2004. It is simply briefer. Applicants did agree to amendments, and the Examiners did agree to another search. Agreement as to allowability was not reached because the Examiner wanted to do further searching (thus the checked box on the Examiner Interview Summary Form).
- Although not explicit, the Examiner Interview Summary Form is believed at least suggestive that certain agreements (as documented in the Office Action Response of March 16, 2004) were reached in terms of the nature of such amendments, since it was clearly agreed that amendments would be made. It would be unusual indeed for the substance of such amendments to have not been identified.

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- The Office Action dated December 21, 2004 identified no new art. The Wong reference was first cited in the Office Action of December 19, 2002. The Boesch reference was first cited in the Office Action of December 22, 2003.
- The claims call for "*verifying the instance of a credit card transaction*". The Office Action dated December 21, 2004, never even properly asserts that this language is met by Wong. The Office Action only asserts that Wong "*discloses that upon recognizing an instance of a credit card transaction, asking a user to confirm storage of information describing the credit card transaction*". There simply is no teaching or suggestion of this claim feature in Wong or Boesch, and accordingly *prima facie* obviousness has not been established.
- Numerous other distinctions have been pointed out during the course of prosecution of this application, along with reasons that the rejections are defective – any one of which should be adequate to show that *prima facie* obviousness has not been properly established.

In view of the above, Applicant earnestly requests reconsideration and allowance of all claims as amended on February 2, 2005. If the Examiner remains unpersuaded, Applicant wishes to have the issues resolved at the Board of Appeals and Interferences. This is believed most appropriate at this point in view of the multiple searches and protracted prosecution of this application within the examining group, resulting in an apparent impasse.

Respectfully submitted,



Jerry A. Miller
Registration No. 30,779

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Please Send Correspondence to:
Miller Patent Services
2500 Dockery Lane
Raleigh, NC 27606
Phone: (919) 816-9981
Customer Number 24337

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